



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :13.03.2019

CORAM:

THE HONOURABLE MR. JUSTICE N.SESHASAYEE

Crl.O.P. (MD) .No.413 of 2019

and

Crl.M.P. (MD) .No.211 of 2019

Senthil Kumar

... Petitioner / Accused No.4

Vs

1.The Inspector of Police,
Karimedu Police station,
Madurai City.
(Crime No.915 of 2018)

...Respondent / Complainant

2.Mr.Elango,
Deputy Jailor,
I/C Jailor, Central Prison, Madurai. ...Respondent / De facto
Complainant

PRAYER: This Criminal Original Petition has been filed under Section 482 of Criminal Procedure Code, to call for the records pertaining to the First Information Report in Crime No.915 of 2018, dated 10.11.2018, on the file of the respondent No.1 for the offences under Sections 42, 45(12) of Prisons Act, 1894 and 34 of I.P.C. on the file of the first respondent and quash the same as illegal as against the petitioner along.

For Petitioner : Mr.T.Lajapathi Roy

For R1

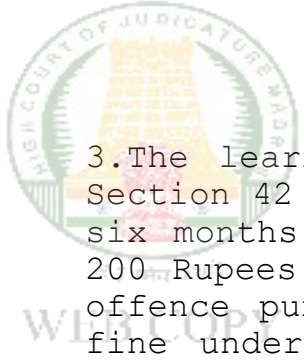
: Mr.V.Neelakandan

Additional Public Prosecutor

O R D E R

The petitioner is assigned as fourth accused, though has not been mentioned in the First Information Report in Crime No.915 of 2018, has now approached this Court for quashing the First Information Report.

2.The learned counsel appearing for the petitioner submitted that as per the First Information Report, during a routine search of the cells, where prisoners are lodged within the prison premises, few cell phones were recovered along with SIM cards and charger either from open space or from inside the undergarments of the three prisoners. In the course of investigation, the petitioner and few others have also been roped in by the investigating agency. The petitioner is arrayed as Accused No.4.



3.The learned counsel appearing for the petitioner submitted that Section 42 of the Prison Act, 1894, provides a maximum punishment of six months simple imprisonment with or without fine, not exceeding 200 Rupees. He added that as per Part II of Schedule-I Cr.P.C. any offence punishable with imprisonment for less than three years or fine under other laws other than I.P.C have been denoted as non cognizable offence and necessarily under Section 155(2), mean, the investigation case cannot be registered unless there is a Magisterial sanction to the same. Admittedly, in this case, the complainant has not preferred a complaint before the Magistrate. Necessarily, the First Information Report fails and accordingly, this Court quashes the First Information Report in Crime No.915 of 2018.

4.In view of the above, this Criminal Original Petition stands allowed accordingly. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CO)

// True Copy //

Sub Assistant Registrar(CS)

tsg

To

1.The Inspector of Police,
Karimedu Police Station, Madurai District.(Crime No.915/18)

2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

1 CC to M/s.T.LAJAPATHI ROY, Advocate (SR-54073[F] dated 14/03/2019)

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13.03.2019

DS/ /SAR- (10.04.2019) 2P 4C